IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Regular First Appeal Nos.366 of 2000 and 30 of 2001.

Date of decision: 11.06.2007.

---

1. RFA No.366 of 2000.

Rajeshwar Singh ….Appellant

Versus

LAC & Others ….Respondents

2. RFA No.30 of 2001.

Jagat Ram ….Appellant

Versus

LAC & Another ….Respondents

Coram

The Hon'ble Mr.Justice Dev Darshan Sud,J.

Whether approved for reporting ?[1]

For the Appellant(s): **Mr.Anand Sharma, Advocate.**

For Respondent No.1: **Mr.M.S. Chandel, Advocate General with Mr.Rajan Dewan, Additional Advocate General.**

Dev Darshan Sud,J.

Both these appeals are being disposed of by a common judgment as they involve a common question of law.

The claimants in both these appeals are aggrieved by the judgment of the learned District Judge refusing to consider the case of the appellant(s) for compensation for trees on the acquired land. While deciding the appeal, the learned

---

[1] ***Whether the reporters of Local Papers may be allowed to see the judgement*?**

District Judge has held that the claimants-appellants are not entitled to any excess compensation for the trees because it was nowhere alleged in the Reference Petition that the compensation assessed by the Land Acquisition Collector for trees is inadequate. The learned Court holds that since the claimant has not challenged assessment of the compensation for trees, no amount can be paid to them.

I have heard learned counsel for the parties. Learned counsel appearing for the appellant has placed reliance on the judgment of the Hon'ble Supreme Court in ***Hans Raj Sharma (Dead) by LRS.*** *Vs.* ***Collector Land Acquisition, Tehsil & District Doda, (2005)1 SCC 553.*** Their Lordships while dealing with a similar question, has held as under:-

> ***"13.*** *Turning to the other question as to the valuation of trees, it appears that there has been an omission on the part of the Reference Court in rejecting the claim on the ground that there was no specific reference made. It must be remembered that the reference made under Section 18 was for determination of the amount of compensation payable to the appellant for the "land" acquired. The expression "land" as defined in Section 3(a) of the Act is inclusive of benefits to arise out of the land and things attached to the earth or permanently fastened to anything attached to the earth. As a matter of*

> *fact, the Land Acquisition Officer had worked out the compensation for 261 trees in Khasra No.804 determined as Rs.17,315 and the cost of 96 trees in Khasra No.805 determined as Rs.6207.*
>
> ***14.*** *Issue 2 raised by the Reference Court was "whether the value of trees worth Rs.300 per tree, has not been included in the award". While answering this issue, the Reference Court has taken the view that the Reference Court has no jurisdiction to determine the controversy as it has not been referred by the Collector. This, in our view, is erroneous. The Reference Court ought to have adjudicated the claim of the appellant for higher compensation in respect of trees. On account of the unduly restrictive view taken of its own jurisdiction, the Reference Court fell into error. The Single Judge and the Division Bench also fell into the same error in totally rejecting this claim as beyond jurisdiction".*

In view of the law settled by the Hon'ble Supreme Court, both the appeals are accepted. The judgments in the Reference Petitions of the learned District Judge are set aside and the matter is remanded to the learned District Judge to determine the compensation for the trees in accordance with law and the settled position as laid down by the Hon'ble Supreme Court.

The appellants have also moved applications under Order 41 Rule 27 of the Code of Civil Procedure for permission to lead additional evidence. These applications shall also be considered by the learned District Judge in accordance with law and decided/disposed of accordingly. Both these appeals are accordingly allowed and the judgments of the learned District Judge in so far as it denies the grant of compensation with respect to trees, are set aside. There shall be no order as to costs.

June 11, 2007 **(Dev Darshan Sud)**
(aks) **Judge.**